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July 8, 2009

*ALSO ADMITTED IN TX

VIA HAND-DELIVERY

The Honorable Charles L.A. Terreni
Chief Clerk/Administrator
Public Service Commission of South Carolina
Post Office Box 11649
Columbia, South Carolina 29211

RECEIVED
2009 JUL -8 PM 2:55
SC PUBLIC SERVICE
COMMISSION

RE: Richard Dawkins, Complainant/Petitioner v. Utilities Services of South Carolina,
Inc., Defendant/ Respondent.
Docket No.: 2009-109-W

Dear Mr. Terreni:


Enclosed for filing on its behalf of Utilities Services of South Carolina, Inc. ("USSC") are the original and one (1) copy of its Motion to Dismiss in the above-referenced matter. By copy of this letter, I am serving a copy of these documents upon the parties of record and enclose a Certificate of Service to that effect.

I would appreciate your acknowledging receipt of these documents by date-stamping the extra copy that is enclosed and returning the same via the person delivering same.

If you have any questions, or if you need any additional information, please do not hesitate to contact me.

Sincerely,

WILLOUGHBY & HOEFER, P.A.



Benjamin P. Mustian

BPM/ccm

Enclosures

cc: Jeffrey M. Nelson, Esquire
Richard Dawkins

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-109-W

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PUBLIC SERVICE
COMMISSION

IN RE:)
)
Richard Dawkins,)
Complainant/Petitioner,)
)
v.)
)
Utilities Services of South Carolina, Inc.,)
Defendant/Respondent)
_____)

MOTION TO DISMISS

Pursuant to 26 S.C. Code Ann. Regs. 103-829 and applicable South Carolina law, Utilities Services of South Carolina, Inc. (“USSC” or the “Company”) hereby moves the Public Service Commission of South Carolina (“Commission”) to dismiss the above-captioned matter on the grounds that the complainant has failed to follow the Commission rules and regulations and failed to file prefiled testimony in accordance with the Commission’s directions. In support thereof, the Company would show as follows:

1. This matter arises from a complaint filed with the Commission on or about March 4, 2009. By letter dated May 22, 2009, Commission Staff established deadlines for the parties to this proceeding to file prefiled testimony and served this document on all parties of record, including the complainant. Pursuant to the Commission’s directions, the complainant’s prefiled direct testimony was due on June 22, 2009.

2. The complainant failed to file the required testimony in accordance with the rules and regulations of the Commission and the Commission's letter dated May 22, 2009.¹ See S.C. Code Ann. § 58-3-140 (Supp. 2009); 26 S.C. Code Ann. Regs. 103-845 (prefiled testimony requirement).

3. As complainant has failed to comply with the Commission's rules and procedures, this case should be dismissed with prejudice. See Jackson v. S.C. Electric & Gas Co., Order Granting Motion to Dismiss, Order No. 2007-670, Docket No. 2007-262-EG (S.C. Pub. Serv. Comm'n Sept. 27, 2007) (dismissing case when complainant failed to prefile testimony).

WHEREFORE, USSC respectfully requests that the Commission issue an order finding that the complainant has failed to comply with the Commission's rules and procedures; dismissing the instant complaint with prejudice; and granting to USSC such other and further relief as the Commission may deem just and proper.



John M.S. Hoefer

Benjamin P. Mustian

WILLOUGHBY & HOEFER, P.A.

Post Office Box 8416

Columbia, South Carolina 29202-8416

803-252-3300

Attorneys for Defendant/Respondent

Columbia, South Carolina

This 8th day of July, 2009

¹ As the Commission is aware, USSC's prefiled testimony in this matter was due to be filed on July 6, 2009. As stated in its letter to the Commission of this date, USSC is unable to file testimony in this docket due to complainant's failure to comply with the Commission's rules and regulations and the prefiled testimony requirements and while this Motion to Dismiss is pending.

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-109-W

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COMMISSION

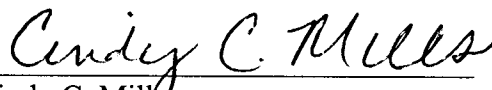
IN RE:)
)
Richard Dawkins,)
Complainant/Petitioner)
)
v.)
)
Utilities Services of South Carolina, Inc.,)
Defendant/Respondent)
_____)

CERTIFICATE OF SERVICE

This is to certify that I have caused to be served this day one (1) copy of Defendant's **Motion to Dismiss** in the above-referenced action by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

Richard Dawkins
110 Purgatory Point
Chapin, SC 29036

Jeffrey M. Nelson, Esquire
Office of Regulatory Staff
Post Office Box 11263
Columbia, South Carolina 29211



Cindy C. Mills

Columbia, South Carolina
This 8th day of July, 2009.